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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/898,921	07/23/1997	YOICHI YAMAGISHI	35.C9583-CI.	6547

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EXAMINER

NGUYEN, LUONG TRUNG

ART UNIT

PAPER NUMBER

2612

22

DATE MAILED: 04/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Am

<b>Office Action Summary</b>	Application No.	Applicant(s)
	08/898,921	YAMAGISHI, YOICHI
	Examiner LUONG T NGUYEN	Art Unit 2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 January 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 27,29,33-35 and 37-61 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 27, 29, 33-35, 37-61 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

    1. Certified copies of the priority documents have been received.

    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 27, 29, 33-35, 37-43 filed on 1/9/2003 have been fully considered but they are not persuasive.

Applicant's arguments with respect to newly added claims 44-61 filed on 1/9/2003 have been considered but are moot in view of the new ground(s) of rejection.

In re pages 9-10, the Applicant argues that nothing in Bullock et al. is seen to teach displaying an image which was picked up by an image pickup unit and stored in a memory when it is detected that an image pickup apparatus is not connected, as recited in claim 27.

In response, the Examiner considers that Bullock et al. disclose this feature. Bullock et al. disclose the stack buttons 183 and 184 determine all images displayed are to be stacked (stored). And a second global stacking function allows only “stacked” images are displayed (column 5, lines 1-29). Note that these “images” were picked up by the camera. It clearly that images, which were picked up by the camera, are stacked (stored) and displayed. When the camera 118 in Bullock is disconnected from computer 100 (Figure 1), there is no image transmitted from camera 118 to computer 100, therefore, only stacked images are displayed.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 44-61 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9-25 of U.S. Patent No. 6,483,539 in view of Bullock et al. (US 5,675,358).

Regarding claim 44, Claim 9 of U.S. Patent No. 6,483,539 discloses an external pickup apparatus connectable to an image pickup apparatus comprising a connection detector adapted to detect whether or not said image pickup apparatus is connected (a connection detector, Lines 3-4); a controller adapted to read out an image pickup program for controlling said image pickup apparatus from a program storage portion to store the image pickup program into a predetermined memory, in case that said connection detector detects that said image pickup apparatus is connected (a controller, Lines 5-10).

Claim 9 of U.S. Patent No. 6,483,539 fail to specifically disclose an interface; and an information processing apparatus adapted to be connected with said image pickup apparatus via said interface. However, Bullock et al. disclose (Figures 1 and 2) camera 118 (image pickup apparatus) is connected to computer 100 (an information processing apparatus) by means of tether 117 (interface). Therefore, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to modify Claim 9 of U.S. Patent No. 6,483,539 by the teaching of Bullock et al. in order to provide a simple, intuitive, object-oriented user interface to control an image capture device Column 1, Lines 43-45).

As for claims 45-60, these claims are read on Patent Claims 10-25, respectively.

As for claim 61, Bullock et al. disclose a storage medium (RAM 124, Figure 2, Column 4, Lines 1-15) which computer-readbly stores a program (program 152, 154, Column 4, Lines 1-15) to execute control of the image processing system

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 27, 29, 33-35 and 37-43 are rejected under 35 USC 102(e) as being anticipated by Bullock et al. (U.S. Patent No. 5,675,358).

Regarding Claim 27, Bullock et al. disclose (Figures 1 and 2) an image processing system comprising an image pickup apparatus (118) including an image pickup unit (138); and an information processing apparatus (100) including an operating unit (132) adapted to enter

information, a processor (130) adapted to process information entered at the operating unit, a display unit (114) adapted to perform a display corresponding to data processed by the processor, a memory unit adapted to store images (Column 8, Lines 27-31), and an interface adapted to detachably connect said image pickup apparatus (See Figure 2 and Column 3, Lines 3-7 and Column 2, Lines 66-67 and note that the image pickup apparatus is clearly detachable since the computer is an off-the-shelf item to which the image pickup apparatus as a peripheral device clearly must be connected using a detachable connection); a detector adapted to detect that the image pickup apparatus is connected (See Column 5, Lines 8-13 and note that a detection of whether or not the camera is connected is inherent in the decision to supply power thereto); and a controller adapted to enable to display sequential images sent from the image pickup apparatus on said display unit in a case that said detector detects that the image pickup apparatus is connected (Column 5, Lines 29-43), and to display an image stored in the memory unit instead of said sequential images on said display unit in a case that said detector detects that the image pickup apparatus is not connected (Bullock et al. disclose the stack buttons 183 and 184 determine all images displayed are to be stacked (stored). And a second global stacking function allows only "stacked" images are displayed (column 5, lines 1-29). Note that these "images" were picked up by the camera. It clearly that images, which were picked up by the camera, are stacked (stored) and displayed. When the camera 118 in Bullock is disconnected from computer 100 (Figure 1), there is no image transmitted from camera 118 to computer 100, therefore, only stacked images are displayed).

Regarding Claim 29, Bullock et al. disclose that the display unit displays an image sent from the image pickup apparatus in a window in a display screen thereon (Column 5, Lines 29-43).

Regarding Claims 33-35, Bullock et al. disclose that the display unit displays a result detected by the detecting means as marks that relate to a camera and indicate an image pickup condition thereof (Column 5, Lines 29-43).

As to Claims 37-41 see Examiner's comments regarding Claims 27, 29 and 33-35, respectively.

Regarding claims 42-43, Bullock et al. disclose wherein said controller controls said display unit so as to display the image picked up by said image pickup apparatus, during an image pickup operation by said image pickup apparatus (Column 5, Lines 29-60) and display the image stored in said memory unit, during a cessation of the image pickup operation by the image pickup apparatus (images from the stack 206 may be displayed in several ways, Figures 12 and 13, Column 7, Lines 59-67).

### *Conclusion*

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Luong Nguyen** whose telephone number is **(703) 308-9297**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wendy Garber**, can be reached on **(703) 305-4929**.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

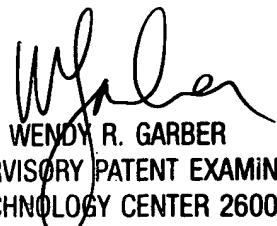
**or faxed to:**

(703) 872 - 9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

LN LN  
3/23/2003

  
WENDY R. GARBER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600